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Former Schertz couple acquitted in daughter's death

By **Zeke MacCormack** Updated 5:41 pm, Wednesday, December 5, 2012



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Sarah Brasse, who died of untreated appendicitis, in happier times. courtesy Kens5 TV

An appeals court on Wednesday tossed out the manslaughter convictions of a former Schertz couple accused of recklessly failing to seek medical attention before the husband's 8-year-old daughter died of appendicitis.

The 4th **Court of Appeals** concluded there was insufficient evidence to support the Guadalupe County jury's guilty verdicts returned last year against **Samantha A. Britain** and David Brasse, now of Brazoria County, in the 2009 death of **Sarah Brasse**.

"We're just thrilled for the parents," said **Susan Schoon**, appellate attorney for Britain, who is not Sarah's biological mother. "This is absolutely the right result.

These parents never should be prosecuted."

Sarah Brasse repeatedly complained of a stomach ache at school on Feb. 4, 2009, prompting the nurse to send her home at noon, according to court records, which indicate she later vomited and had diarrhea.

David Brasse left for work about 4:30 a.m. the following day, and Sarah was kept home in bed by Britain, who discovered her dead about 6 p.m.

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The couple was charged with manslaughter and injury to a child, with prosecutors arguing they should have sought medical care for what an autopsy concluded was a fatal case of appendicitis.

“These people did nothing, and because of that, this little girl died in her bed,” Assistant District Attorney **Larry Bloomquist** told jurors, according to press coverage of the trial in Seguin.

Defense attorneys suggested Sarah died from choking and said their clients had no way of recognizing the dire medical condition caused by the undiagnosed case of appendicitis.

Brasse and Britain were each sentenced to three years in prison but posted bonds that allowed them to remain free while appealing their convictions.

Sarah's biological mother, **Joanne Guerreo**, who is Brasse's ex-wife, had visitation rights at the time of Sarah's death.

“I just feel punched in the stomach,” she said, when told Wednesday of the appellate ruling. “This just makes the loss that much worse. Sarah lived and then she died. No parent wants to see a child die unnecessarily and then nothing come of it. You can't just pick up move on with your life. You can't because nothing's been made right.”

The defendants' euphoria caused by their acquittal Wednesday on appeal was tempered by uncertainty over whether prosecutors will drop the case or challenge the 4th Court's ruling.

“It's clearly not over yet,” said **Chevo Pastrano**, appellate attorney for David Brasse.

Pastrano said the couple is thankful to be out from under the cloud of being convicted felons over Sarah's sudden death from what they thought was a stomach virus.

“Emotionally, they've been struck pretty hard,” he said. “Mr. Brasse was an EMT and, from his perspective, he did everything he knew to do.”

Both sides in the case say that because the appeals court acquitted the defendants, they cannot be retried on the same charges.

Assistant District Attorney **Jessie Allen** said Wednesday that it's not yet known whether the state will ask for a rehearing before the appeals court.

"We haven't made any decision on that yet," he said. "We'll review the opinion and review the record and, once we make a decision, we'll make an announcement.

Both defendants were also convicted by jurors of injury to a child. That verdict against Brasse was set aside by the trial judge, state District Judge **Gary Steel**. On Wednesday, the appeals court acquitted Britain of that charge as well.

In separate rulings that largely mirrored each other, the appellate court said, "The requisite mental state for manslaughter and injury to a child is criminal recklessness" so it examined the evidence for indications the defendants were "subjectively aware of a substantial and unjustifiable risk that Sarah would die without medical treatment."

"Because there is legally insufficient evidence of criminal recklessness, a rational trier of fact could not have found beyond a reasonable doubt the essential elements of the offenses of injury to a child and manslaughter."

The couple declined comment through Schoon, who said, "They just kind of want to be left alone."

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